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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,071	09/26/2003	Matthias Meinicke	H01.2-11313	9288
490 7590 01/24/2008 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344			EXAMINER GORDON, BRIAN R	
			ART UNIT 1797	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/673,071	Applicant(s) MEINICKE ET AL.	
	Examiner Brian R. Gordon	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11-6-07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 17-25 and 36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-16 is/are rejected.
- 7) ☒ Claim(s) 4,5,37 and 38 is/are objected to.
- 8) ☐ Claim(s) 36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Newly submitted claim 36 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claim is directed to a gripping tool that comprises elements that are not required of the invention of claim 1 or vice versa

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 36 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

1. Applicant's arguments filed October 26, 2007 have been fully considered but they are not persuasive. The only required elements of the device are 1) gripping appliances, 2) an appliance for converting movements 3) a coupling appliance and 4) mounting appliance. The remaining portions of the claims specifically the "for" clauses describe how the device is intended to be used or employed with unclaimed elements. As previously stated in the Prior Office Action, the vessels, drive appliance, tool support, and automatic laboratory machine are mentioned in the claimed but are not positively claimed as elements of the gripping tool, hence those elements are not considered limitations of the device. It is further unclear if the power take-off is a structural limitation. If so, of what element.

Applicant asserts the examiner does not point out what portion of Le Comte is equivalent to the tool support. As stated above the tool support is not positively claimed as an element of the gripping tool. The tool support as mentioned in the claim is an element of a separate automatic laboratory machine. If applicant intends for the tool support (and other elements mentioned in the narrative) to be considered an element of the invention the claim should be amended to clearly claim the elements.

Applicant asserts Le Comte does not teach a coupling appliance for detachable connection with a rotational drive appliance. As stated above the rotational drive appliance is not an element of the claimed invention. The only required teaching is an element that allows for coupling. Applicant recognizes the device of Le Comte includes a nut and screw along with other elements. It is conventionally known in the art that a screw/nut mechanism is employed for coupling.

Applicant further asserts Le Comte does not disclose a mounting appliance. As seen the exploded view of Figure 4, there are numerous elements such as pins 122, cams, and a mounting bracket that allow for the mounting of the gripping elements 114, 116.

As to Hubert, the examiner asserts, the figures, for example figure 2A clearly shows the grippers 22 mounted via hardware and further coupled to an element that provides for rotational movement.

In view of the above comments previous rejections are hereby maintained.

As to the specification applicant asserts the specification the coupling appliance is a driving feature. Is it applicant's contention that elements represented by numerals 49 and 79 are structural equivalents?

Specification

2. It should be noted the while reference numbers are allowed in the claims. The numbers are not considered as a substitute for positively claiming specific elements. For example, while numbers 9 and 10 are cited in claim 1, it is not required that the prior art disclose a gripping appliance in the form of "gripping levers" as defined in the specification by the numbers. Such a requirement is only required in the examination of claim 2.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 and 37-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. There is no antecedent basis for "the power take-off" in lines 3-4 of claims 1 and 37.

6. As to claims 1 and 37, it is unclear what elements applicant considers as elements of the invention. As explained above there are numerous elements mentioned in the claims in terms of intended use, but are not positively claimed as elements of the

device. However applicant's arguments seem to suggest that the elements are intended to be considered elements of the apparatus.

It should be noted the power take-off and drive appliance (78) of tool support (66) of the automatic laboratory machine are not considered elements of the invention.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-3, 6-8 and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Le Comte et al. US 6,818,182.

Le Comte et al. discloses a laboratory blood processing device that includes multiple pickup mechanisms (gripping tools). can be seen more particularly in FIG. 5, each of the pick-up mechanisms 32 comprises two clamping assemblies 114 each having two jaws 116 and is arrange to pivot about a pin 118. Each clamping assembly defines a cam groove 120 of a chosen configuration which is designed to work in conjunction with a cam finger 121. The device here includes four cam fingers 121 carried by the pins 122 on an H-bracket 124 mounted at the end 126 of a rod 128, itself mounted at the end of the sleeve 95 (mounting assembly).

Also, the two jaws of the same clamp are drawn together by the action of a resilient return spring 130 allowing the jaws to adapt to the different diameters of the tubes used. The rod 128 is capable of sliding axially and with a linear movement into an aperture 129 in the disk 110, whilst its end 126 is capable of sliding into an aperture 134

in the mobile head. The rod 128 incorporates two flats 131 one of which bears against a base 135 on the mobile head 100, enabling the rod 128 and the head 100 to be locked and rotated or released according to their mutual axial position.

Thus, when the rod 128 is caused to moved axially relative to the mobile head 100, it opens and closes the respective jaws 116 of the two pick-up mechanisms.

The motor 88 is actuated in the screw-in direction and the nut 94 is brought up against the shaft 90 of the motor 88, and the locking means 132 and 133 are placed in the unlocked position, rotation of the motor in the screw-in direction allows the mobile head 100 to be rotated, when the latter is retracted away from the cassette.

Claim Rejections - 35 USC § 102

9. Claims 1-3 and 6-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hubert e al., US 6,589,789.

Hurbert et al. disclose a robotic centrifuge loading device. The dual function tool has a tube 20 gripper and an adapter gripper 22 on separate vertical axis. When one gripper is made operational it is lowered and the other gripper is raised to an inactive position; when one is up, the other is always down. Gripping/releasing controls are built into each gripper and each set of controls acts independently.

The preferred tube gripper is a two-finger device with a mandrel 26 positioned between and above the cavity scribed by the two fingers 24. This mandrel is used to sense tube height. The tube gripper is moved to a position where the fingers are on either side of the tube and the mandrel is above the tube and projecting into the cavity scribed by the fingers. The tool then lowers gripper, the mandrel touches the top of the

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tube and is moved vertically. Sensors (not shown) on the mandrel interface with sensors on its housing to detect a tube that is either too tall, is within a defined acceptable range, or is too short. Using sensors, the robot notes whether the tube is long or short, then picks up the tube and places it into an available position in "empty adaptor A". By removing a tube, an empty puck is created at the interface gate. By noting whether the tube is 'long' or short', the station controller keeps track of the estimated weight of 'adaptor A' and its mate, 'adaptor B'. The gripper sensors can also close on a tube to determine if the tube is 13 mm or 16 mm, which further refines the weight estimate.

The open/close state of the gripper must be established by gripper sensors.

The following things can be monitored in manual mode from the manual mode screen: the robot position on all axes in physical units the state of all I/O bits the gripper sensor bits: jam detect, full open, full close, close to 13 mm, close to 16 mm.

The equivalent structures of the claimed elements the prior are clearly illustrated in figures 2B and 3A.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hubert et al.

Hubert et al. does not specify how the position sensors are connected to the device.

However screw and nut connections are conventional and well known in the art.

It would have been obvious to one of ordinary skill in the art to recognize the sensors may be connected to the device by employing various means including a screw and nut configuration.

Allowable Subject Matter

12. Claims 4-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Claims 37-38 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed; and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, 1st Fri. Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian R Gordon/
Primary Examiner
Art Unit 1797

brg